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HOUSE BILL 782

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Antonio Lujan

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING THE AIR QUALITY CONTROL ACT TO PROVIDE FOR RULES AT LEAST AS STRINGENT AS THE FEDERAL REGULATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-2-5 NMSA 1978 (being Laws 1967, Chapter 277, Section 5, as amended) is amended to read:

"74-2-5. DUTIES AND POWERS-- ENVIRONMENTAL IMPROVEMENT BOARD-- LOCAL BOARD. --

A. The environmental improvement board or the local board shall prevent or abate air pollution.

B. The environmental improvement board or the local board shall:

(1) adopt, promulgate, publish, amend and repeal regulations consistent with the Air Quality Control Act

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1 to attain and maintain national ambient air quality standards  
2 and prevent or abate air pollution, including regulations  
3 prescribing air standards, within the geographic area of the  
4 environmental improvement board's jurisdiction or the local  
5 board's jurisdiction, or any part thereof; and

6 (2) adopt a plan for the regulation, control,  
7 prevention or abatement of air pollution, recognizing the  
8 differences, needs, requirements and conditions within the  
9 geographic area of the environmental improvement board's  
10 jurisdiction or the local board's jurisdiction or any part  
11 thereof.

12 C. Regulations adopted by the environmental  
13 improvement board or the local board may:

14 (1) include regulations to protect visibility  
15 in mandatory class I areas to prevent significant deterioration  
16 of air quality and to achieve national ambient air quality  
17 standards in nonattainment areas; provided that such  
18 regulations:

19 (a) shall be [~~no more stringent than~~  
20 ~~but~~] at least as stringent as required by the federal act and  
21 federal regulations pertaining to visibility protection in  
22 mandatory class I areas, pertaining to prevention of  
23 significant deterioration and pertaining to nonattainment  
24 areas; and

25 (b) shall be applicable only to sources

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1 subject to such regulation pursuant to the federal act;

2 (2) prescribe standards of performance for  
3 sources and emission standards for hazardous air pollutants  
4 that, except as provided in Paragraph (3) of this subsection:

5 (a) shall be [~~no more stringent than~~  
6 ~~but~~] at least as stringent as required by federal standards of  
7 performance; and

8 (b) shall be applicable only to sources  
9 subject to such federal standards of performance;

10 (3) include regulations governing emissions  
11 from solid waste incinerators that shall be at least as  
12 stringent as, and may be more stringent than, any applicable  
13 federal emission limitations;

14 (4) require notice to the department or the  
15 local agency of the intent to introduce or permit the  
16 introduction of an air contaminant into the air within the  
17 geographical area of the environmental improvement board's  
18 jurisdiction or the local board's jurisdiction; and

19 (5) require any person emitting any air  
20 contaminant to:

21 (a) install, use and maintain emission  
22 monitoring devices;

23 (b) sample emissions in accordance with  
24 methods and at locations and intervals as may be prescribed by  
25 the environmental improvement board or the local board;

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1 (c) establish and maintain records of  
2 the nature and amount of emissions;

3 (d) submit reports regarding the nature  
4 and amounts of emissions and the performance of emission  
5 control devices; and

6 (e) provide any other reasonable  
7 information relating to the emission of air contaminants.

8 D. Any regulation adopted [~~under~~] pursuant to this  
9 section shall be consistent with federal law, if any, relating  
10 to control of motor vehicle emission.

11 E. In making its regulations, the environmental  
12 improvement board or the local board shall give weight it deems  
13 appropriate to all facts and circumstances, including but not  
14 limited to:

15 (1) character and degree of injury to or  
16 interference with health, welfare, visibility and property;

17 (2) the public interest, including the social  
18 and economic value of the sources and subjects of air  
19 contaminants; and

20 (3) technical practicability and economic  
21 reasonableness of reducing or eliminating air contaminants from  
22 the sources involved and previous experience with equipment and  
23 methods available to control the air contaminants involved."